

HOUSE BILL 1459

By Kisber

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 6, relative to sales and use taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, is amended by deleting Part 8 in its entirety and by substituting instead the following:

67-6-801. This act shall be known and may be cited as the "Simplified Sales and Use Tax Administration Act."

67-6-802. As used in this act:

(1) "Agreement" means the Streamlined Sales and Use Tax Agreement as amended and adopted on January 27, 2001, by the national conference of state legislatures' special task force on state and local taxation of telecommunications and electronic commerce and adopted by the executive committee of the national conference of state legislatures.

(2) "Certified Automated System" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(3) "Certified Service Provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions.

(4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

(5) "Sales Tax" means the sales tax levied under Title 67, Chapter 6.

(6) "Seller" means any person making sales, leases, or rentals of personal property or services.

(7) "State" means any state of the United States and the District of Columbia.

(8) "Use Tax" means the use tax levied under Title 67, Chapter 6.

67-6-803. The general assembly finds that a simplified sales and use tax system will reduce and over time eliminate the burden and cost for all vendors to collect sales and use tax. The general assembly further finds that Tennessee should participate in multi-state discussions to review or amend the terms of the agreement to simplify and modernize sales and use tax administration in order to reduce substantially the burden of tax compliance for all sellers and for all types of commerce.

67-6-804. For the purposes of reviewing or amending the agreement embodying the simplification requirements as contained in Section 67-6-806, the state of Tennessee shall enter into multi-state discussions and shall be represented in such discussions by the following four (4) delegates: the commissioner of revenue or the commissioner's designee; one (1) member of the house of representatives appointed by the speaker of the house; one (1) member of the senate appointed by the speaker of the senate; and the comptroller of the treasury.

67-6-805. No provision of the agreement referenced in this act in whole or part

invalidates or amends any provision of the law of the state of Tennessee. Adoption of the agreement by the state of Tennessee, if subsequently authorized by the general assembly by legislative enactment, does not amend or modify any law of the state of Tennessee. Implementation of any condition of the agreement in the state of Tennessee, whether adopted before, at, or after membership of the state of Tennessee in the agreement, must be authorized by the general assembly by legislative enactment. This act does not constitute authorization to enter into the agreement.

67-6-806. The commissioner of revenue shall not enter into the agreement unless specifically authorized to do so by subsequent legislative enactment of the general assembly, and unless the agreement requires each state to abide by the following requirements:

- (a) The agreement must set restrictions to limit over time the number of state rates.

- (b) The agreement must establish uniform standards for the following:

- (1) The sourcing of transactions to taxing jurisdictions.

- (2) The administration of exempt sales.

- (3) Sales and use tax returns and remittances.

- (c) The agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

- (d) The agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

- (e) The agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:

(1) Restricting variances between the state and local tax bases.

(2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register to file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.

(3) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.

(4) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(f) The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed by July 1, 2002.

(g) The agreement must require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.

(h) The agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(i) The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member

state representatives with which to consult in the administration of the agreement.

67-6-807. The agreement referenced in this act is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

67-6-808.

(a) No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of the state of Tennessee and the other member states and not by the terms of the agreement.

(b) Consistent with subsection (a), no person shall have any cause of action or defense under the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the state of Tennessee, or any political subdivision of the state of Tennessee on the ground that the action or inaction is inconsistent with the agreement.

(c) No law of the state of Tennessee, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

SECTION 2. This act shall take effect July 1, 2001, the public welfare requiring it.